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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of

AURIO A. MATOS

LLOYD SANTIAGO-SANTOS and LOURDES
RODRIGUEZ-BONET

For Construction Permit for a New
Station on Channel 293A in
Culebra, Puerto Rico

) MM Docket No. 93-89

) File No. BPH-911114MS

) File No. BPH-911115MP

To: Honorable Joseph P. Gonzalez
Administrative Law Judge

REPLY FINDINGS OF FACT AND
CONCLUSIONS OF LAW OF
AURIO A. MATOS

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Aurio A. Matos ("Matos"), by his counsel, respectfully submits his Reply Findings of Fact and Conclusions of Law in the above-captioned proceeding. Based on the record evidence and the Proposed Findings of Fact and Conclusions of Law filed in this case, Matos is the comparatively superior applicant and his application for a new FM station to serve Culebra, PR should be granted.

This case is not "too close to call" and need not be sent to a "tie breaker" lottery as Lloyd Santiago-Santos and Lourdes Rodrigues-Bonet ("Santiago and Bonet") assert. Although the applicants are both entitled to 100% quantitative integration credit, with both applicants equally enhanced by their Hispanic ownership composition, proposed future local residence and auxiliary power proposals, Matos offers a vastly superior coverage proposal, and is entitled to a greater enhancement than Santiago and Rodrigues for his superior past broadcast experience.

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I. The Comparative Coverage Sub-Issue

Subsumed within the standard comparative issues that were specified in this proceeding was consideration of which applicant would provide a 1 mv/m or greater signal to the largest number of persons in the greatest area. Santiago and Bonet ignore the total coverage question entirely, believing that if there are no underserved (less than 5 aural services) areas or populations to consider, then the applicants are equal. As Matos correctly points out in his Findings (§ 21) the Commission awards comparative enhancement credit to applicants that propose greater overall coverage even if the areas are already adequately served.^{1/}

Matos proposes to serve 45 times the population and 10 times the area that Santiago and Bonet propose to serve. (Matos PF §§ 3, 20; MMB PF § 7) He is entitled to, at the very least, a slight preference for such a tremendous difference in overall coverage. See, Simon Geller, 90 FCC 2d 250, 268-69, 276 (1982).

II. Past Broadcast Experience

Without citing any support for their position, Santiago and Rodrigues claim that they are entitled to a "past broadcast experience" preference over Matos because both of their principals went to college, one to become an accountant and the other a lawyer, while Matos chose to get his education in broadcasting as

^{1/} The Mass Media Bureau concurs in the award of a preference for Matos based on his superior coverage proposal. (MMB Findings at § 7-8)

a broadcaster. (S&R PF ¶¶ 28, 30) ^{2/} There are several problems with the theory of Santiago and Rodrigues.

Counsel for Santiago and Rodrigues cite no case law support for the award of past broadcast experience enhancement credit to a station accountant. Further, Rodrigues' experience was clearly not managerial and the Commission puts a premium on managerial experience as compared to non-managerial experience. Angeles Broadcasting Network, 56 RR 2d 149 (Rev. Bd. 1984).

In addition, an applicant principal's college degree has never entitled the principal to past broadcast experience credit unless that individual was involved in radio or television in college. See, Jarad Broadcasting Co., Inc., 61 RR 2d 389 (Rev. Bd. 1986).

In any event, the comparative coverage aspect of the standard comparative issue is of more significance than the past broadcast experience component, so even if the applicants are considered "even" in their past broadcast experience (which we contend is not the case) Matos still prevails on the undisputed credit he receives for a superior overall coverage proposal. See, Jarad Broadcasting, supra.

^{2/} Matos was, as Santiago and Rodrigues relate, born in September 1963. However, there is no evidence in the record to suggest that Matos is "obviously stretching it" in claiming to have been a general manager by age 17. Santiago and Rodrigues elected not to seek an opportunity to cross-examine Matos at hearing, and cannot now make unsubstantiated challenges that somehow his written testimony is not true. Old Time Religion Hour, Inc. 55 RR2d 424 (Rev. Bd. 1984). Further, they cite no case law to support the proposition that a seventeen year old cannot be a general manager.

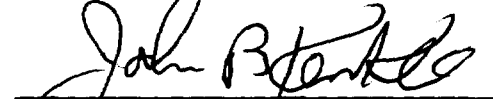
WHEREFORE, it is respectfully requested that the Presiding Judge issue an Initial Decision granting the application of Matos and denying the application of Santiago and Rodrigues.

Respectfully submitted,

AURIO A. MATOS



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October 18, 1993


CERTIFICATE OF SERVICE

I, Scott Cinnamon, do certify that on this 18th day of October, 1993, a copy of the foregoing was sent via first class mail, postage pre-paid or delivered, as indicated, to the parties set forth below:

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